

17<sup>TH</sup> GROUND.

J. E. DUFFY, Sworn for the State. I am the J. E. Duffy who was a witness on the trial of the State vs. Leo M. Frank. My evidence was as follows: "I worked at the National Pencil Company. I was hurt there in the metal department. I was cut on my forefinger on the left hand. That is the cut right around there. (indicating) It never cut off any of my fingers. I went to the office to have it dressed. It was bleeding pretty freely. A few drops of blood dropped on the floor at the machine where I was hurt. The blood did not drop anywhere else except at that machine. None of it dropped near the ladies dressing room, or the water cooler. I had a large piece of cotton wrapped around my finger. When I was first cut I just slapped a piece of cotton waste on my hand.

CROSS EXAMINATION. "I never saw any blood anywhere except at the machine. I went from the office to the Atlanta Hospital to have my finger attended to."

That statement is the truth. The reason I changed my evidence was because C. W. Burke first came to see me. My brother-in-law, Mell Arnold, came one day where I was working and told me that a man by the name of L. P. Eubanks wanted to see me that night at his (Eubank's) house. Mr. Burke was there and met me with Eubanks, that being the second time I had seen Burke. Burke went ahead and wrote out a paper and had me sign it. That paper was false. Burke did not pay me anything, but promised me that he would get me a job paying me \$15.00 a week until he got me a job working with the Southern Railroad again, if I would sign the affidavit. I borrowed \$5.00 from ... L.P. Eubanks before I made this statement and Eubanks told me if I wanted money I could get it from him and he would take my notes for it. Sometime about a year ago myself, L. P. Eubanks, Mell Arnold and B. C. Duffy (my father) were arrested for alleged car breaking. Eubanks is the man who swore against the crowd and secured the indictments. At that time C. W. Burke was the special agent of the Southern Railroad and had charge of the prosecution. It was through Burke that Eubanks' case and the cases against the other men mentioned was nolprossed. Eubanks, in this prosecution, was Burk's [sic] head witness in all these cases. A fellow by the name of Fritz Lynn and Jim Wren took me Thursday night, April 30 to my mother-in-law's house at 332 Barnett Street. This was sometime before 12 o'clock. I could not get in the house and took a street car to my own home. When I got home I saw Jim Wren and Lynn in an automobile in front of my house. I whistled and they came up to where I was. I told them I could not get in my mother-in-law's house. Then

they put me in the automobile and after driving around town a little bit and giving me supper, etc. they then took me to Austell, Ga. All the sleeping I did that night was done in the automobile. The automobile was stopped on the side of the road and all of us went to sleep. The next morning we spent in Austell. Wren and I stayed in Austell and Lynn came back. Lynn is the man who drives the automobile for C. W. Burke and Jim Wren is working on the case for C. W. Burke Wren bore all expenses. Last night, May 1<sup>st</sup>, Lynn, came to Austell and brought me back to Atlanta to the Capital City Chair Company on Marietta St. That was around 9 o'clock. There were a number of people gathered there, all of whom I took to be Jews, about eight or ten in all. They asked me all about my connection with the case. I told them all about it, and told them that Burke had promised to keep me out of jail if I would sign the affidavit which I had signed for Burke, and to get me out of any trouble of any kind in which I got. The other day, when Mr. N. A. Garner came out to ask me to come to Mr. Dorsey's office, I told him I would come if I could, but I did not come. Afterwards when Mr. Garner came to serve me with a subpoena I saw him and dodged.

N. A. GARNER, Sworn for the State. I went to the Southern Railroad Yards at the lower end of Decatur Street today about one o'clock to look for J. E. Duffy in order to subpoena him to go before an official court stenographer to make a statement for the hearing of an extraordinary motion for new trial in the Leo M. Frank case, or to get him to sign an affidavit which I had written out. The first time I saw him at this time was when he came out of a little shanty in the railroad yards and started walking fast toward some box cars. As soon as I saw him I started running after him but before I could get over to the shanty, he was out of sight, there being many box cars standing on the tracks all around there which prevented my finding him or seeing which way he went. As soon as I got over to the shanty, though I saw Mr. L. P. Eubanks, who told me that he had been talking with Duffy just a moment before and Duffy had said: "Yonder's a fellow I don't want to see." Eubanks asked him "Who is it?" Duffy Replied, so Eubanks told me: "Newt Garner, and Duffy replied "I'm going' to beat it," and immediately left. For three quarters of an hour I searched around among the box cars looking into many empty box cars, hoping to find Duffy, but finally left without finding him.

ROBERT L. WAGGONER, J. H. DOYAL, Sworn for the State. We are detectives of the city police department of the city of Atlanta. We are acquainted with J. E. Duffy. Several months ago we saw Mr. Duffy in the office of the detective department. We do not know whether or not he came to the office upon his own initiative, or whether or not someone requested him to come. The first time we saw him was when he was there and talking about what he knew about his hand getting out at the National Pencil Company. Mr. Duffy stated that he had heard that it had been stated that the blood found on the factory floor possibly came from his finger when it was cut. He stated that this was not true, that it could not have been possible. He stated as his reason the fact that he had some waste in his hand at the time his finger on his other hand was cut and that he caught his finger at once in his other hand with the waste around it and held it tight catching whatever blood came from his hand in the waste and holding his finger tight with the waste so as to impede the flow of blood, and that holding his hand in this way he went immediately out of the room and on into Mr. Frank's office.

[illegible - two letters] DUFFY, Sworn for the State. I am the father of J. E. Duffy. About one month ago I was walking home from the Southern Railroad yards with L. P. Eubanks and L. P. Eubanks said to me: "We are letting your son, J. E. Duffy, have money, and we are taking his notes for it, but that don't make any difference, He will not have to pay it back."

N. A. GARNER, S. L. ROSSER, Sworn for the State. We know J. E. Duffy and together we talked with Mr. Duffy, at the office of the Solicitor General, a short time after the murder of Mary Phagan and Mr. Duffy told us that when his finger was cut at the National Pencil Company, that he had some waste and that he immediately wrapped it around his finger and held the waste and the injured finger in his uninjured hand and that he was absolutely sure that no blood could have escaped to the floor; that he immediately went to the door of Mr. Frank's office and from there to some hospital. We were at the time of this statement discussing as to how the blood spots had gotten on the floor of the factory, and the fact that it had been suggested by someone that the injury of Mr. Duffy's hand was probably the source of the blood. This Mr. Duffy denied. We talked with Mr. Duffy on the evening of April 23, 1914 at his home in Atlanta and Mr. Duffy then stated that Mr. Dorsey, the solicitor General had not paid him

any money, but that the Solicitor General did O.K. his subpoena, so that he could draw his compensation as a witness allowed by law, and that after the solicitor approved his subpoena that he (Mr. Duffy) went to the County Treasurer and got the money, about \$7.60.

H. L. CULBERSON, Sworn for the State. I am Treasurer of Fulton County, Georgia, and was during the year 1913; The record in my office show that on August 19, 1913, I paid to one J. E. Duffy the sum of \$7.60, same having been paid him on a witness subpoena approved by the Solicitor General for two days' service as a witness and an affidavit sworn to by the said J. E. Duffy for \$3.60 mileage.

MELL ARNOLD, Sworn for the State. I was indicted in the Superior Court of Fulton County, on evidence produced by C. W. Burke, who was then special agent on the Southern Railway. There was absolutely no truth in the charges against me. Burke's main witness was one L. P. Eubanks. I lost my job with the Southern Railway on account of this indictment. C. W. Burke was helping me, since he left the Southern Railway to get my position back. While Burke was helping me to get my job back, one day he asked me to see my brother-in-law, J. E. Duffy and to ask him to go to the residence of L. P. Eubanks on Alexander Street. I went to J. E. Duffey [sic] and told him to go to Eubanks' house. I am not positive whether told Duffey that C. W. Burke would be there at Eubanks' house or not. After I went to Duffey [sic] and requested him to go to Eubanks' house I was present when Duffy executed a paper for Burke. Burke and Eubanks however both knew that I was going to be present when they interviewed Duffy. After this occasion, I got my job back on the Southern. Fritz Lyn was also present when Duffy made this statement for Burke. I do not know myself about any money being paid. I had been promised the job by the Master Mechanic of the Southern Railway and Eubanks before the Duffy statement. I do not know whether it was the next week or the next month, but sometime soon after this I went back to work for the Southern Railway.